

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 AARON BEARD, et al.,)
)
 Defendants.)
 _____)
 This Order Pertains to:)
)
 AARON HICKS (D-04))
 _____)

No. 3:93-cr-0002-HRH

O R D E R

Case Status

By order of July 16, 2008,¹ the court requested that counsel confer and that the court either receive a joint report or an appropriate motion on behalf of defendant Hicks whose case been remanded to this court by the court of appeals. The court is now in receipt of Mr. Hicks' motion for resentencing.² The court infers that counsel for defendant Hicks and the Government have conferred and that they have been unable to reach any agreement as to how this matter should proceed.

By the instant motion, defendant Hicks suggests that he is entitled to a resentencing hearing, an adjustment of his guideline

¹Docket No. 1007.

²Docket No. 1008.

calculation, an opportunity to brief and argue issues raised at his last resentencing hearing, and to be transported to Alaska to confer with counsel and attend a resentencing in person. The court has not awaited a response from the Government in connection with this motion for several reasons. First, the court doubts that there is room for disagreement that further proceedings in this case are necessary. The court will undoubtedly schedule a hearing at an appropriate time after defendant Hicks' contentions have been developed. Second, however, the instant motion, while developing the history of Mr. Hicks' sentencing, does nothing to advance the court's understanding of Mr. Hicks' current position. In other words, the instant motion contains no development of Mr. Hicks's resentencing contentions to which the Government might respond. Finally, and while the court has routinely made provision for telephonic participation of parties to proceedings under 18 U.S.C. § 3582(c)(2), it is not at all clear to the court at this juncture that there is any substantial necessity for Mr. Hicks' physical presence in connection with the proceedings that are to follow.

Mr. Hicks' motion for resentencing is granted insofar as it contemplates a hearing on a more detailed motion for resentencing, but is otherwise denied at this time. Counsel for defendant Hicks will please serve and file his amended motion for resentencing on or before September 10, 2008. The Government will please respond on or before October 10, 2008. An optional reply may be filed on or before October 24, 2008. A hearing on the renewed motion will

be scheduled once the court has had an opportunity to review the motion papers.

DATED at Anchorage, Alaska, this 8th day of August, 2008.

/s/H. Russel Holland
United States District Judge